

**COMMISSION ON UNEMPLOYMENT COMPENSATION
EXECUTIVE SUMMARY OF FINAL REPORT
JANUARY 12, 2004**

I. BACKGROUND

Chapter 33 of Title 30 of the Virginia Code (§§ 30-218 *et seq.*) establishes the Commission on Unemployment Compensation ("Commission"), authorizing its work through July 1, 2006. The Commission continues the work of the Joint Subcommittee Studying the Unemployment Trust Fund, which was established in 1977. SB 889 expanded the scope of responsibilities from those assigned to the Joint Subcommittee, which had been charged to make a study of the future funding and administrative requirements for the Commonwealth's unemployment compensation system, as follows:

- Evaluate the impact of existing statutes and proposed legislation on unemployment compensation and the Unemployment Trust Fund;
- Assess the Commonwealth's unemployment compensation program and examine ways to enhance effectiveness;
- Monitor the current status and long-term projections for the Unemployment Trust Fund; and
- Report annually its findings and recommendations to the General Assembly and the Governor.

The Commission's members include Senators John C. Watkins (Chairman), Yvonne B. Miller, and Frank W. Wagner, and Delegates Harry R. Purkey (Vice Chairman), Terry G. Kilgore, Samuel A. Nixon, Jr., R. Lee Ware, Jr., and Lionell Spruill, Sr..

The Commission met twice, on June 17, 2003 and November 17, 2003. Summaries of both meetings are posted on the Commission's website at <http://dls.state.va.us/SB889.htm>. This executive summary of the interim activity and work of the Commission shall be submitted to the Governor and General Assembly and posted on the General Assembly's website no later than the first day of the 2004 session; a full report will be completed at the end of the 2004 legislative session.

II. KEY ISSUES

1. Solvency of the Unemployment Trust Fund

For the years 1997 through 2001, the Trust Fund's solvency level was at least 100 percent. For 2002, the solvency level declined to 83 percent. The trust fund is expected to bottom out in April of 2004 at \$24 million and then to recover. The decline in the Trust Fund solvency level automatically triggers the imposition of higher unemployment taxes on employers. The average annual

tax per employee, which ranged between \$48 and \$51 between 1998 and 2001, is expected to increase to \$62 in 2003, \$161 in 2004, and \$183 in 2005. If the fund does not recover, it may be necessary to access short-term federal loans.

2. Low First Payment Rate

A claimant can receive only one first payment in his benefit year; first payments thus provide a good estimate for the number of paid claims annually. Virginia's first payment rate is approximately 9 percent below the national average. The low first payment rate may be related to the low benefit reciprocity rate, which in turn is due in part to the fact that Virginia historically has had an unemployment rate lower than the national average. The Virginia Employment Commission will continue to track and report on this issue.

3. Tax Burden

Low-wage paying employers carry a disproportionate share of the employer tax burden. The contributions to the unemployment insurance trust fund come from only a portion of wages, currently \$8,000. Because wages have grown faster than this tax base, employers paying higher wages (which result in higher unemployment compensation payments) are paying proportionately less in taxes for relatively higher unemployment insurance benefit payments to any former employees

4. Impact of 2003 Laws

The expected net effect of legislation enacted in the 2003 Session of the General Assembly will be to decrease Trust Fund solvency commencing in 2004 and to result in slightly higher tax levels commencing in 2005. The elimination of 50 percent of the pension offset applied to Social Security and Railroad Act pensions is expected to add 0.5 percent to annual benefit costs. The implementation of an optional alternative base period for claimants who would not qualify for benefits using the current base period determination is expected to add one percent to annual benefit costs. This bill was intended to operate to provide a partial offset to low-wage paying employers, given the disproportionate share of the employer tax such employers bear.

5. Coordination of Workforce Training Programs and Resources

HB 2075, passed last session in partial response to the then draft recommendations of the Joint Legislative Audit and Review Commission, expanded the responsibilities of the Virginia Workforce Council and authorized it to give policy advice to the Governor on workforce and workforce development issues, and to provide policy direction to local work force investment boards. The legislation also reduced the size of the Council by 14 appointees (from 43 to 29) and established the Virginia Workforce Network to replace "Virginia's Workforce Development Program."

The Secretariat of Commerce and Trade is approaching workforce coordination at the cabinet level through a memorandum of understanding signed by the Secretary of Commerce and Trade, and the Secretary of Education, and the Secretary of Health and Human Resources. The Virginia Workforce Council now is focusing on (i) consistency in goals and approaches and capacity among the local workforce investment boards and (ii) clear measures of accountability.

6. Benefits Charging

In the 2003 session, legislation changing the way benefits are charged to employers was introduced. HB 2264 would have required all benefit charges to be assessed against the most recent employer, regardless of the duration of employment. The bill sought to change the current practice of charging a reimbursable employer for benefits in cases where that employer was not the discharging employer. HB 2485 would have proportionately charged all taxable employers in a claimant's base period rather than only the most recent taxable employer (which is current practice). The legislation was stricken with the agreement of the patrons, but benefits charging will continue as an issue in the coming year.

7. SUTA Dumping

State unemployment tax (SUTA) dumping occurs when a company reorganizes or acquires another company in order to obtain a lower tax rate. The Virginia Employment Commission has made the Commission aware that there is a concern nationally that employers are using such strategic business practices to avoid paying taxes based on their true employment experience. The Commission will monitor this on an ongoing basis with the thought that if the problem continues, it could warrant legislation in the 2005 session.

III. ACTIONS

The General Assembly authorized a two-year actuarial analysis of Virginia's unemployment compensation system. Dr. Wayne Vroman, Urban Institute, presented the final report to the Joint Subcommittee Studying the Unemployment Trust Fund in December 2002. The Commission voted unanimously to accept the report, with the proviso that acceptance does not constitute an endorsement of the report's recommendations. Dr. Vroman's report is summarized in the Report of the Joint Subcommittee Studying the Funding Requirements of the Virginia Unemployment Trust Fund (H. Doc. 30, 2003).

The Honorable John C. Watkins, Chairman
Ellen Bowyer, Staff Attorney, Division of Legislative Services
Tommy Gilman, Senate Committee Operations